

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

**Proposing rule making related to establishing a safety zone on Beaver Creek
and providing an opportunity for public comment**

The Natural Resource Commission (Commission) hereby proposes to amend Chapter 40, “Boating Speed and Distance Zoning,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 321G.2, 321I.2, 462A.3 and 462A.26.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321G.2, 321I.2, 462A.3 and 462A.26.

Purpose and Summary

Beaver Creek is a small river with increasing recreational use that is encouraged in part by publicity surrounding the City of Johnston’s sponsorship of a recreational water trails plan. Beaver Creek flows through the Camp Dodge military reservation in Polk County. As recreation has increased on Beaver Creek, concerns among Iowa National Guard personnel at Camp Dodge have increased because of the potential for accidental injury and death at the facility’s live-fire practice range. Beaver Creek is within a “surface danger zone,” which is the area designated within the Camp Dodge training complex for containment of projectiles, fragments, debris, and components resulting from the firing, launching, or detonation of weapon systems, including explosives and demolitions. Currently, members of the public are potentially unaware of this danger when passing through the Camp Dodge facility via Beaver Creek. This proposed rule making creates a safety zone into which access may be prohibited when clearly identified by signage in order to reduce risk to public safety. If at some future date live-fire ammunition is no longer used during training exercises at Camp Dodge, the Commission may seek to rescind this rule.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. A copy of the fiscal impact statement is available from the Department upon request.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found. A copy of the jobs impact statement is available from the Department upon request.

Waivers

This rule is subject to the waiver provisions of 571—Chapter 11. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 4, 2020. Comments should be directed to:

Nate Hoogeveen
Department of Natural Resources
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319
Fax: 515.725.8201
Email: nate.hoogeveen@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows. Upon arrival, attendees should proceed to the fourth floor to check in at the Department reception desk and be directed to the appropriate hearing location:

February 4, 2020
2:30 to 3:30 p.m.

Conference Room 4E
Wallace State Office Building
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Adopt the following new rule 571—40.61(321G,321I,462A):

571—40.61(321G,321I,462A) Beaver Creek safety zone. A safety zone is hereby established on Beaver Creek within the property boundaries of the Camp Dodge military reservation in Polk County.

40.61(1) Watercraft and vehicles shall be prohibited from entering the safety zone in order to prevent access to areas within Camp Dodge where a hazard to the public may exist. This prohibition shall not apply to watercraft or vehicles explicitly authorized to enter the safety zone by the Iowa national guard. The safety zone boundaries shall be indicated by signage including the wording “Warning, Restricted Area, No Entrance.” The Iowa national guard shall be responsible for the acquisition, placement, and maintenance of any signage.

40.61(2) The safety zone shall be recognized by the state of Iowa only where signage is posted as required. Any section of Beaver Creek that is not designated as a safety zone shall remain open to any otherwise lawful public access.

40.61(3) Signs establishing the safety zone boundaries may be moved within the present or future boundaries of Camp Dodge at the sole discretion of Iowa national guard personnel. The Iowa national

guard shall notify the department of natural resources when the location of the safety zone boundary is changed.

This rule is intended to implement Iowa Code sections 321G.2, 321I.2, 462A.3, and 462A.26.